

EXHIBIT A

IN RE: WEBLOYALTY.COM, INC. MARKETING & SALES PRACTICES
Status Conference

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

Civil Action No. MDL 07-1820

IN RE:)
) TRANSCRIPT OF STATUS CONFERENCE
)
WEBLOYALTY.COM, INC.,)
)
MARKETING and SALES)
)
PRACTICES LITIGATION)
)

BEFORE: The Honorable Joseph L. Tauro,
District Judge

John J. Moakley United States Courthouse
Courtroom No. 20
One Courthouse Way
Boston, Massachusetts 02210
Tuesday, April 24, 2007
2:15 p.m.

Marcia G. Patrisso, RPR, CRR
Official Court Reporter
John J. Moakley U.S. Courthouse
One Courthouse Way, Room 3507
Boston, Massachusetts 02210

(617) 737-8728

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1 THE CLERK: All rise for the Honorable Court.

2 THE COURT: Good afternoon, everybody. I have a
3 different cast here.

4 THE CLERK: This is MDL Number 07-1820, In Re:
5 Webloyalty.com, Inc., Marketing Practices.

6 Would counsel please identify themselves for the
7 record.

8 MR. GEORGE: Good afternoon, your Honor. David
9 George from Lerach, Coughlin on behalf of all
10 plaintiffs. With me is my colleague, Stewart Davidson,
11 also from Lerach, Coughlin; Andrew Garcia from
12 Phillips & Garcia, who is our local counsel; and, your
13 Honor, Mark Tamblyn, who's not yet been admitted pro hac
14 in this case, but is co-counsel, for Wexler, Roriseva,
15 in California.

16 THE COURT: You're filing a motion to get him
17 admitted?

18 MR. GEORGE: Yes, your Honor.

19 THE COURT: I think it's a hundred bucks or
20 something, right?

21 MR. GEORGE: Yes.

22 THE COURT: You have to do that, because the
23 money comes to us. Every Friday we see how much is
24 there.

25 (Laughter.)

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1 MR. GEORGE: Excellent. We will take care of
2 that right away.

3 THE COURT: We'll look forward to having him.
4 How about the back table: Who's here?

5 MS. WOLOHOJIAN: Gabrielle Wolohojian, your
6 Honor, on behalf of all of the defendants. With me is
7 my partner, Jack Regan, also with WilmerHale; Steve
8 Lieberman of Rothwell, Figg, who is our co-counsel in
9 this matter; and my partner, Joan Mitrou, is on the end.

10 THE COURT: Okay. It's an interesting case. I
11 certainly don't have my arms around it the way you
12 people do, but I think I see how the case ought to be
13 managed, and let me just talk from that standpoint
14 rather than the merits of any, you know, summary
15 judgment motion.

16 I think that what you should do here is to
17 permit me to appoint a very qualified discovery master,
18 which I've done on cases like this. And there's a
19 certain -- sometimes, you know, the first gut reaction
20 is, "No, we want" -- "My client wants a federal judge to
21 do it, not a discovery master."

22 But when I've had an opportunity to -- most of
23 the time it's just agreeable to the parties. But when
24 there's been a little disagreement, once I explain to
25 them how it's really an economic benefit to the parties,

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1 because it's cheaper -- less expensive, is a better way
2 to put it -- less expensive, in the long run, for you to
3 have a qualified person who really baby-sits your case.
4 Instead of having to file motions with me, you'll file
5 your motions with the master, and under my order the
6 master's decisions on all pretrial matters would be
7 final. And you would move right along, much quicker
8 than if you have to keep waiting to come back to me.
9 You could get stuck in a 30-day trial the way we seem to
10 be occupied now. You know, that means that we're not
11 going to see you.

12 So that's what I -- that's the first thing I
13 wondered. And I'm springing it on you, and I think it's
14 too important for you to have to respond like a pop
15 quiz.

16 I could see that your associate here wants to
17 get your attention before you respond, so why -- do you
18 want to take a second and just sort of whisper it to
19 each other?

20 (Discussion off the record.)

21 THE COURT: You split the cost.

22 MR. GEORGE: Your Honor, we have no objection.

23 MS. WOLOHOJIAN: Your Honor, we don't have an
24 objection to a discovery master once we reach the point
25 of having discovery disputes. I don't think it resolves

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1 the threshold issue that we believe we need the Court's
2 attention for, which is the summary judgment motion and
3 the Rule 56(f) motion that was filed in response.

4 What discovery would actually be entailed in
5 these cases will flow from a decision on the Rule 56(f)
6 motion. It therefore seems to me to make sense
7 administratively and just --

8 THE COURT: Let me just tell you this: that
9 without giving you a look at tomorrow's newspaper and
10 without deciding it definitely, I think it's unlikely
11 that I would allow your motion for summary judgment,
12 okay? I don't think the case is in a summary judgment
13 posture right now. I think it does require discovery.

14 And one thing I just -- you know, I'd just toss
15 out, which is not, you know, with the formality of an
16 opinion or a citation or, you know, that I want to be
17 held to, the way -- when you look at the little squibs
18 that are at issue here, you know, the one that said
19 you'll pay \$10 a month or something like that,
20 whatever -- where is it here? The reservation reward
21 Fandango thing.

22 When you look at that, the first thing that
23 struck me is that it's really very similar to the
24 products liability cases that we have. I know that they
25 don't necessarily follow. But it's analogous, in a way,

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1 to the products liability cases where the issue is not
2 was there a warning, but was the warning big enough; was
3 it the right color; was it deceiving; was it surrounded
4 by other material which may have made it less
5 meaningful? And I think that's what you're stuck with
6 here.

7 And I'm having this conversation with you, you
8 know, because you are so professional. Why should we --
9 you know, why should I kid you and take you down the
10 line? I think that's -- I think that's what's going to
11 happen. And I respectfully disagree with you. I think
12 what you want to do is to get a discovery master in here
13 promptly who will serve you and make -- if there's going
14 to be a recommendation that something happen, you know,
15 that's something that the special master will be in a
16 position to jump right on it.

17 MS. WOLOHOJIAN: Your Honor, if I may.

18 THE COURT: Yes.

19 MS. WOLOHOJIAN: With all due respect, I think
20 this is very different from a products liability case.

21 THE COURT: I know it is. I hesitated in
22 telling you and bringing that up because I didn't want
23 you to leap all over it, and then we're going to have an
24 argument about whether you have a case in -- I was
25 giving it to you as a reaction -- you know, as a

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1 reaction to the situation. And, you know, those kinds
2 of reactions have a way of permeating the case. But
3 talk to me now.

4 MS. WOLOHOJIAN: What I was going to say, your
5 Honor, is that in opposition to the Rule 56(f) motion,
6 we have not taken the position that there should be no
7 discovery; the dispute, rather, is what discovery is
8 required to address the summary judgment.

9 THE COURT: I understand. You and I aren't
10 having any quarrel about that. A discovery master may
11 order retail discovery, you know, may -- I leave that up
12 to the discovery master. Or the discovery master may
13 have, at various stages, a very tailored discovery
14 leading up to, perhaps, the filing of a motion to
15 dismiss.

16 The first thing I think you need in a case like
17 this is a consolidated motion and a consolidated
18 complaint. You may say that you really don't need it
19 because you were sent, you know --

20 MS. WOLOHOJIAN: The consent?

21 MR. GEORGE: The consent.

22 THE COURT: The consent is the key issue, and
23 you don't need a consolidation. I don't think so. I
24 think you do need a consolidated complaint. I've had
25 many of them, and I've never had one that we didn't have

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1 a consolidated complaint.

2 MS. WOLOHOJIAN: Your Honor, actually --

3 THE COURT: And then, perhaps, there ought to be
4 a motion to dismiss it, you know, your challenges to a
5 consolidated complaint.

6 MS. WOLOHOJIAN: Your Honor, if I may on the
7 consolidated complaint issue. I don't think that's
8 possible here because of the different defendants that
9 have been named in the various cases. In each case
10 there is a common defendant, who is Webloyalty, but
11 there's also a defendant who is particular to the
12 specific case. There is -- so there is not an identity
13 of defendant.

14 The same claims could not be brought by the same
15 plaintiffs against all of those defendants; in other
16 words, the plaintiff who conducted his or her
17 transaction through Fandango would not be able to
18 maintain a claim against Priceline. So that there --
19 you really couldn't have a unified complaint. Because
20 there is not a common set of claims against all of the
21 defendants, you're also never going to be able to have a
22 common class against those defendants for the same
23 reasons.

24 On top of that, though, there are different
25 legal claims asserted in different complaints. There

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1 are claims asserted in the Melo complaint, for example,
2 that are under California state law that aren't brought
3 in any of the other claims. And, you know, there's the
4 ancillary issues as to which law's going to apply to
5 each of these cases given that the plaintiffs are in
6 different forms or residents of different states. So I
7 don't believe that, actually, you could consolidate this
8 complaint given these differences.

9 THE COURT: Let me stop you there. Let me just
10 see how the plaintiff may agree with you. Let's see how
11 far that goes. Go ahead.

12 MR. GEORGE: We don't agree, your Honor. We
13 believe that we should have an opportunity to plead a
14 consolidated complaint; we believe that because the
15 essence of the complaint is that the defendants
16 undertake a uniformed course of conduct with respect to
17 all consumers, that we can plead claims that go across
18 all of their business practices, and we certainly should
19 have an opportunity to do that.

20 If they want to argue on a motion to dismiss
21 that we can't, or they're even talking about class
22 certification and things that happen right down the
23 line, they should have an opportunity to move to dismiss
24 if they so choose, but we believe with your Honor that,
25 in MDL context, we should certainly have at least an

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1 opportunity to file a consolidated complaint, and we
2 believe that we're in a position to do that. And we've,
3 in fact, asked and brought a proposed agenda, that the
4 Court issue an order giving us 30 days to do that.

5 THE COURT: Yeah, I recall that.

6 MR. GEORGE: And to do so.

7 MS. WOLOHOJIAN: I don't think that addresses
8 any of the points that I've raised, with all due
9 respect, your Honor. Mr. George hasn't said anything
10 about how to deal with the fact that there are different
11 claims against different defendants and --

12 THE COURT: That goes to his motion to -- the
13 motion to consolidate, I take it, anticipating you
14 filing an objection to that motion or a motion to
15 dismiss. So I'm not prepared to deal with the substance
16 now, but I am prepared to deal with the practicality of
17 my suggestion, which I still think you people should
18 adopt, and that is to have someone here who's going to
19 be an experienced lawyer and, you know, would be of
20 assistance to me and of assistance to everybody in
21 getting this case in shape for resolution.

22 MS. WOLOHOJIAN: And on that point, your Honor,
23 I don't see how discovery -- the questions of
24 discovery can be addressed, divorced from the issues
25 that are raised in our summary judgment motion. It's a

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1 very limited issue of law and whether the disclosure
2 constituted sufficient legal consent, essentially.

3 There are a very small number of facts. They
4 are in our Rule 56(f) statement of undisputed facts.
5 The plaintiffs have not come back to say they dispute
6 those facts, but if they do, they should come forward;
7 we should see if there's a dispute. We're willing to
8 provide them, and, in fact, we always have voluntarily
9 provided them all the documents concerning the
10 plaintiffs' transactions.

11 That limited question should be decided by the
12 Court. And whether it comes out for us or against us,
13 it will be useful for all the subsequent stages of the
14 litigation. If it comes out for us, obviously it
15 disposes of the central legal question; if it comes out
16 against us, the plaintiff has suffered no prejudice
17 other than a question of timing, whether they get this
18 broader discovery later rather than now. And it, too,
19 understanding how you are going to apply and interpret
20 the law for this case, will help frame all of the
21 discovery that would follow from it.

22 So with all due respect, I really do think that
23 the discovery cannot be considered without the summary
24 judgment issue as part of that deliberation, and for
25 that, we would need your attention.

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1 THE COURT: Well, you've indicated that some
2 discovery is necessary for -- even if I went directly to
3 the motion for summary judgment.

4 MS. WOLOHOJIAN: Yes. And we've set that out in
5 our opposition to the Rule 56(f) motion, your Honor. I
6 believe it's on pages 5 and 6. I don't quite remember
7 the page numbers. But we set out the specific
8 categories. Some of that we have already voluntarily
9 turned over to the plaintiffs: all of the screens that
10 their clients saw, their customer service records.

11 Beyond that, it would be a very limited amount
12 of discovery, 30(b)(6) deposition on the topics that are
13 identified there. We've said they can depose the
14 affiants. We've agreed that they can depose the
15 affiants who have submitted the affidavits.

16 THE COURT: Even that is an ambitious discovery
17 schedule.

18 MS. WOLOHOJIAN: Your Honor, I believe we could
19 have it all completed within two months. Maybe six
20 weeks.

21 THE COURT: Maybe what?

22 MS. WOLOHOJIAN: Maybe six weeks. And then it
23 would be a matter of having the summary judgment -- they
24 would file their -- we've already previously filed an
25 agreed-to schedule.

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1 THE COURT: I still think you should have a
2 discovery master. If you want to say "no," say "no,"
3 but I don't want to be vague.

4 MS. WOLOHOJIAN: Would the Rule 56(f) motion and
5 the summary judgment motion be referred to the discovery
6 master?

7 THE COURT: Yes; for recommendation.

8 MS. WOLOHOJIAN: Including the --

9 THE COURT: The discovery master may agree with
10 you and think that this should go -- that should go
11 first. When I've appointed a discovery master in a case
12 like this, I give -- I don't have the discovery master
13 on a string. I appoint someone who does not need a
14 job -- you know, the successful lawyer who doesn't need
15 a job -- who's going to get paid, and paid properly, for
16 his or her services.

17 But I don't preordain the results. I don't tell
18 them how I want it to come out. And the discovery
19 master may carve it up in a way that sort of surprises
20 me and it turns out to be fine.

21 MS. WOLOHOJIAN: Well, then, your Honor, what I
22 would suggest is that if the pending motions will be
23 referred to the discovery master for recommendation,
24 that --

25 THE COURT: And anything can be resolved. In

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1 other words, a motion that requires something on the
2 merits, naturally a discovery master can only make the
3 recommendation. But there will be other motions,
4 non-dispositive, that I will refer to the discovery
5 master for resolution. There could be, you know, some
6 dispute at a deposition as to whether somebody has to
7 answer a question. They're not going to come back to me
8 for that.

9 If you agree to go to a discovery master -- and
10 it may be that some depositions are going to be on the
11 thorny side, and it's been my experience that it's
12 useful to have the discovery master to actually preside
13 at the deposition. You know, you get the matter
14 resolved right away.

15 MS. WOLOHOJIAN: Your Honor, I'm very concerned
16 that having a discovery master appointed will, in and of
17 itself, put the cart before the horse and prevent the
18 legal issue that really is a threshold issue here.

19 THE COURT: Yeah, but you're saying there has to
20 be some discovery.

21 MS. WOLOHOJIAN: A very limited amount.

22 THE COURT: Well, you say "a limited amount."
23 That all depends on your attitude.

24 MS. WOLOHOJIAN: If the discovery master would
25 be considering the summary judgment motion and the

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1 pending -- the pending motions first --

2 THE COURT: The discovery master would be
3 considering those. Now, what went first would be up to
4 the discovery master. I thought you and I had an
5 understanding.

6 MS. WOLOHOJIAN: I didn't understand that. I
7 understood that what would happen is that the case, in
8 its current posture, which has a couple of pending
9 motions, would go to the discovery master either for
10 disposition depending on the nature of the motion or
11 recommendation to you, and that the discovery master
12 would then deal with the pending motions, make either a
13 decision or recommendation, and we would proceed from
14 there.

15 MR. GEORGE: Your Honor, may I be heard for a
16 moment, please?

17 THE COURT: Yeah, go ahead.

18 MR. GEORGE: If your Honor permits us to file a
19 consolidated complaint, all of the pending motions in
20 the Fandango case will be mooted. If they decide later
21 on, or whatever time they want to, that they want to
22 file a motion for summary judgment with respect to a
23 consolidated complaint, so be it. What I see defense
24 counsel arguing is that they're only willing to agree to
25 your Honor's suggestion in the event that there's going

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1 to be a disposition of those pending motions first.

2 And frankly, if we're permitted to file a
3 consolidated complaint, they're moot. There will be no
4 Fandango complaint in and of itself; there will be a
5 complaint that addresses all defendants. And they may
6 choose to move for summary judgment at the very outset
7 of the case, and that's certainly their prerogative, but
8 if your Honor's inclined to allow us to file a
9 consolidated complaint, we're still all for a discovery
10 master, but it moots what they're trying to do.

11 THE COURT: And I thought I made clear that I'm
12 going to do that. I'm going to allow a motion for a
13 consolidated complaint.

14 MS. WOLOHOJIAN: Your Honor, I respectfully
15 object to that, and in part, because this is permitting
16 them to do something that really should not be allowed.

17 They pled the complaint to say they received no
18 disclosures at the time of this program. We had moved
19 for summary judgment. They did not in all the months
20 subsequent to that file a motion to amend their
21 complaint or change the nature of the case. That is
22 what they are trying to do now.

23 THE COURT: We just got it as an MDL case. How
24 long --

25 MS. WOLOHOJIAN: They were filed individually,

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1 your Honor, in November.

2 THE COURT: I know, but I'm dealing with it now.
3 I'm not talking about then; I'm dealing with it now.
4 And my practice has been, and my experience has been,
5 that in these MDL cases, you try to get a consolidated
6 complaint.

7 MS. WOLOHOJIAN: It should not be a back door,
8 your Honor, to what I hear is going to happen, which is
9 to subvert the summary judgment motion, to change the
10 factual pleadings in the complaint, or to change the
11 legal theories. Those -- being permitted to consolidate
12 a complaint simply because the cases have been MDL'd, to
13 change the nature of this case, should not be permitted.

14 THE COURT: Okay. You filed your opposition.
15 Have you filed a motion to consolidate?

16 MR. GEORGE: No, your Honor. Your Honor had
17 actually already issued an order consolidating the
18 cases, and so we anticipated that we would address that
19 issue here at the status conference, and when we
20 submitted the agenda, that is exactly what we asked the
21 Court to do, was to permit us 30 days to file a
22 consolidated complaint.

23 We hadn't filed a formal motion. We could
24 certainly do that if it's the Court's desire, but I
25 thought the issue was framed.

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1 THE COURT: I think since there's going to be an
2 opposition, you ought to file a motion and give her a
3 chance to respond to the motion. But that's probably a
4 good place to start.

5 MR. GEORGE: So may we have 30 days to file a
6 motion?

7 THE COURT: Yes, you may.

8 MR. GEORGE: Thank you, your Honor.

9 THE COURT: And how much time do you need to
10 respond?

11 MS. WOLOHOJIAN: Three weeks, your Honor.

12 THE COURT: All right. Three weeks.

13 And then in the meantime --

14 MS. WOLOHOJIAN: And would that be referred to
15 the master?

16 THE COURT: Will that be referred to the master?

17 MS. WOLOHOJIAN: That motion.

18 THE COURT: Well, I don't have a master yet
19 because you've got to pay for him, and until you smile
20 and say you're going to pay for it, then there is no
21 master.

22 MS. WOLOHOJIAN: If all of these matters will be
23 referred to the master, your Honor, we would assent to
24 it.

25 THE COURT: Okay. So you are assenting to it?

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1 MS. WOLOHOJIAN: If the notion is that
2 everything would be transferred. I don't want things to
3 go piecemeal, one place to another. So if the motion to
4 consolidate is going to go to the master, and any
5 discovery disputes will go to the master, and the
6 pending summary judgment motion and Rule 56(f) motion
7 would all go to the master, then it seems to me that
8 that would be acceptable to us.

9 MR. GEORGE: Your Honor, I apologize for being
10 difficult, but it's clear -- you've already indicated
11 your strong desire to allow a consolidated complaint.
12 And the request that that motion in and of itself be
13 sent to a master, I think there's an obvious reason why.
14 We would ask that you consolidate it --

15 THE COURT: No. No. Maybe I misunderstood.
16 What I said I'm going to do is get your motion for
17 consolidation, which I expect there may be some
18 opposition to, but I expect that I'm going to allow it.
19 Then the consolidated complaint -- I think this is what
20 you're talking about: The consolidated complaint and
21 all of -- any motions that may still exist after that,
22 assuming they're not mooted by the allowance of the
23 motion, then they will all go to the master who will
24 convene this body again and come up with a schedule of
25 events.

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1 And it may be that the master will think that
2 the first thing that ought to be dealt with is a revised
3 motion for summary judgment, if you have to tweak it in
4 some fashion, because you're dealing with a consolidated
5 complaint, or he may be dealing with a motion to dismiss
6 the consolidated complaint.

7 MR. GEORGE: We have no objection to that, your
8 Honor.

9 THE COURT: And, you know, that -- I can't
10 anticipate, you know, everything that's going to come
11 up, although I guess reasonably I can anticipate that,
12 you know, a motion to dismiss the consolidated complaint
13 may be filed, or a motion for summary judgment on the
14 consolidated complaint might be filed.

15 But assuming that it goes forward after that,
16 then I expect that -- and it would be part of my order,
17 that the special master schedule with you an agenda of
18 events that would take us down to the end, you know, so
19 that certain whatever kind of discovery is necessary,
20 and when that's going to be completed -- has to be
21 completed.

22 MS. WOLOHOJIAN: Your Honor, on filing a motion
23 for leave to file a consolidated complaint, I understand
24 that you would deal with that motion. You would decide
25 that motion before a referral --

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1 THE COURT: The motion to file a consolidated
2 complaint? Yes.

3 MS. WOLOHOJIAN: Right. Before a referral to a
4 discovery master?

5 THE COURT: Right.

6 MS. WOLOHOJIAN: And am I also correct in
7 understanding the case would not be referred to a
8 discovery master until you made a decision on that
9 motion?

10 THE COURT: That's either allowed or denied. I
11 am not one who believes in 5,000 words for a one-word
12 answer: "allowed," "denied." That's that. And as my
13 former Chief Judge Young used to say: What part of the
14 word "denied" don't you understand and what part of
15 "allowed" don't you understand?

16 MS. WOLOHOJIAN: And then the currently-pending
17 motions -- specifically, the summary judgment motion --

18 THE COURT: They may continue to exist or they
19 may be mooted by --

20 MS. WOLOHOJIAN: Will your order specifically
21 refer to them as being referred to the discovery master?

22 THE COURT: Yup.

23 MS. WOLOHOJIAN: Okay. If I may confer, then,
24 your Honor.

25 THE COURT: Sure. And understand, just so it's

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1 very, very clear, whatever the -- whatever the cost of
2 the special master is, you divide it. And then usually
3 I require payment every two weeks. Within two weeks
4 after a periodic bill is then sent.

5 (Discussion off the record.)

6 THE COURT: Are you ready for me? Go ahead.

7 MS. WOLOHOJIAN: I am, your Honor.

8 Provided that your referral order makes clear
9 that the discovery master will have the authority to
10 decide discovery matters and make recommendations on all
11 of the dispositive matters, such as motions to
12 dismiss --

13 THE COURT: Have you got a copy of my --

14 THE CLERK: I may, Judge. I'm not sure if I
15 have one up here. Do we have one?

16 LAW CLERK: Diversified Biotech.

17 THE COURT: I think the last one we did.

18 LAW CLERK: Diversified Biotech had a special
19 master.

20 THE COURT: It's a very broad order that I give.
21 I give the special master the authority to do
22 everything. And it's very selfish on my part because I
23 hope I don't see you on the case again until the
24 conclusion when I get the pat on the back that I've done
25 a nice job.

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1 (Laughter.)

2 MS. WOLOHOJIAN: Our concern was, your Honor,
3 that -- making sure that the order was explicit that the
4 special master had the power to make recommendations on
5 the dispositive motions. As long as that's the case, as
6 well as the discovery masters, we would agree to that.

7 THE COURT: No. Everything other than the
8 dispositive motions the master will decide just as
9 though it's me.

10 MS. WOLOHOJIAN: Right. And as to dispositive
11 motions --

12 THE COURT: Dispositive motions you'd be in the
13 position of a magistrate judge making a recommendation.

14 MS. WOLOHOJIAN: That's fine, your Honor. Then
15 we're amenable to your suggestion.

16 THE COURT: All right. I think you'll find it
17 works out. I'll get you a good, hard-working, talented
18 special master.

19 Now, just as I was making sure that we got paid
20 our fee for -- what is it, pro hac vice, I want to make
21 sure that you understand the terms of the engagement of
22 the special master. I don't want to have any -- only
23 once did I have a problem, you know, with people paying
24 the special master, and it's very insulting. I mean, I
25 can't conceive it's going to happen as far as you people

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1 are concerned, counsel here. I just want to make sure
2 that we're sure that you won't have any problem with any
3 clients who aren't going to pay the master. Are you
4 sure?

5 MS. WOLOHOJIAN: I don't anticipate there will
6 be any problem, your Honor.

7 THE COURT: Okay. I don't mean to belabor the
8 point, but I just want to make sure it's been covered
9 and there's no misunderstanding.

10 And you the same, right?

11 MR. GEORGE: Yes, your Honor.

12 THE COURT: I have a form of an order in another
13 case which is a matter of public record, but I don't
14 know whether I...

15 (Discussion off the record.)

16 THE COURT: Here. Why don't you look at this.
17 I'll --

18 Just let them look at it.

19 That will be essentially the form of order.

20 (Pause.)

21 THE COURT: Having in mind nothing's ever been
22 written that can't be rewritten, do you understand, at
23 least, the nature of the order?

24 MR. GEORGE: Yes, your Honor.

25 THE COURT: Do you have any objection?

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1 MR. GEORGE: No, your Honor.

2 THE COURT: Okay.

3 MS. WOLOHOJIAN: Your Honor, the only thing I
4 can think to add would be that all pending motions are
5 being referred. I don't know if that was the situation
6 in that case, but it might be worth saying in this
7 particular circumstance.

8 THE COURT: Well, I don't think it's necessary,
9 but let me look at it. If I think it would clarify
10 things, then I will. I think what it says is that I'm
11 appointing her for the entire case.

12 I have no quarrel with that; I just want to see
13 it.

14 Do you have any quarrel with the form of order?

15 MS. WOLOHOJIAN: Otherwise, no, your Honor.

16 THE COURT: Okay. All right. Thank you very
17 much. We'll attend to all of this as soon as we
18 possibly can. Right now we'll get back to this trial.
19 Thank you for coming.

20 COUNSEL IN UNISON: Thank you, your Honor.

21 (The proceedings adjourned at 2:46 p.m.)
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C E R T I F I C A T E

I, Marcia G. Patrisso, RPR, CRR, Official
Reporter of the United States District Court, do hereby
certify that the foregoing transcript constitutes, to
the best of my skill and ability, a true and accurate
transcription of my stenotype notes taken in the matter
of MDL 07-1820, In Re: Webloyalty.com, Inc., Marketing
and Sales Practices Litigation.

MARCIA G. PATRISSE, RPR, CRR
Official Court Reporter